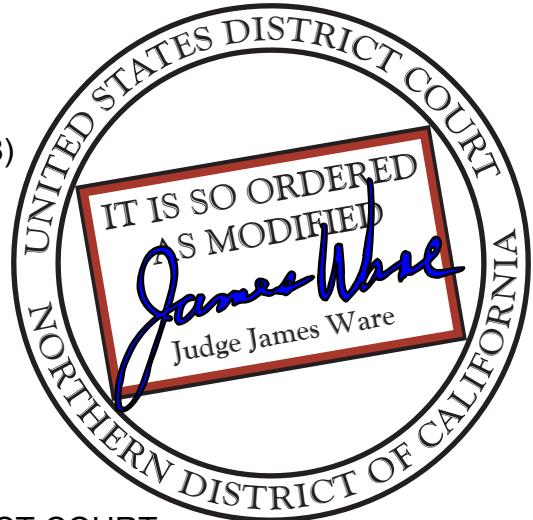


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6 Attorneys for CITY OF SAN JOSE



8 UNITED STATES DISTRICT COURT
 9 NORTHERN DISTRICT OF CALIFORNIA
 10 SAN JOSE DIVISION

12 JUAN DIAZ, KEITH KEESLING,
 13 CHRISTOPHER MURPHY, GARY
 WEEKLEY, KAREN ALLEN and other
 employees similarly situated,

14 Plaintiffs,

15 v.

17 CITY OF SAN JOSE,

18 Defendant.

Case Number: C07-06424 JW

STIPULATION AND [PROPOSED] ORDER EXTENDING THE EARLY NEUTRAL EVALUATION PERIOD

20 **STIPULATION**

21 Pursuant to the stipulation of the parties, the Court, on April 23, 2008, ordered the
 22 matter to Early Neutral Evaluation ("ENE") and appointed Thomas Gosselin, Esq. as the
 23 evaluator. The ENE was to be completed by July 22, 2008. The parties engaged in an ENE
 24 session before Mr. Gosselin on July 21, 2008. At the end of session, it was determined that
 25 it would be most efficient for the parties and the court, and would more likely result in the
 26 informal resolution of this matter, were the parties to engage in another ENE session with Mr.
 27 Gosselin after having a reasonable opportunity to further study the scope of the damages
 28 being claimed by Plaintiffs under the Fair Labor Standards Act. The parties also agreed to

1 attempt to address the related case, *Welch v. City of San Jose* (Case No. C08-02132 JW) at
 2 the second ENE, as some of the legal issues overlap in the two cases. Combining the ENE
 3 of *Diaz v. City of San Jose* and *Welch v. City of San Jose* would further promote efficiency
 4 for the parties and the court. As such, the parties, with Mr. Gosselin's support, stipulate
 5 through counsel that the ENE period will be extended up through and including September
 6 12, 2008, by which time the parties will schedule another ENE session. The parties further
 7 stipulate that the hearing for cross-motions for summary judgment, currently scheduled for
 8 September 8, 2008, be taken off calendar to be rescheduled at a future date.

9 WYLIE, MCBRIDE, PLATTEN & RENNER
 10

11 Dated: July 30, 2008

By: /s/ Carol L. Koenig
 12 CAROL L. KOENIG

13 Attorney for Plaintiffs, JUAN DIAZ, KEITH
 14 KEESLING, CHRISTOPHER MURPHY,
 15 GARY WEEKLEY, and KAREN ALLEN

16 RICHARD DOYLE, City Attorney

17 Dated: July 30, 2008

By: /s/ Robert Fabela
 18 ROBERT FABELA
 Sr. Deputy City Attorney

19 Attorney for Defendant CITY OF SAN JOSE

21 ATTESTMENT OF CONCURRENCE PER GENERAL ORDER 45 FOR FILING:

22 I attest that concurrence in the filing of this document by the signatories, Robert
 23 Fabela and Carol L. Koenig, has been obtained, and that a record of the concurrence shall
 24 be maintained at the Office of the City Attorney.

25 Date: July 30, 2008

By: /s/ Robert Fabela
 26 ROBERT FABELA

PROPOSED ORDER

IT IS HEREBY ORDERED that the ENE period shall be extended up through and including September 12, 2008, by which time the parties will schedule another ENE session with the Evaluator regarding both the present case as well as *Welch v. City of San Jose* (Case No. C08-02132 JW). Furthermore, the hearing for cross-motions for summary judgment, currently scheduled for September 8, 2008, shall be taken off calendar until further notice.

The Court sets a Further Case Management Conference for **October 6, 2008 at 10 a.m.** On or before **September 26, 2008**, the parties shall file a Joint Case Management Statement.

The Statement shall update the Court on the parties' ENE efforts; and to the extent that ENE fails, the Statement shall set forth a good faith discovery schedule, including a proposed date for the close of all discovery.

Dated: August 4, 2008



JAMES WARE
United States District Judge